

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MENACHEM SILBER,	:	
	:	Docket # 20-2529
Plaintiff,	:	
v.	:	NOTICE OF REMOVAL OF ACTION
	:	UNDER 28 U.S.C. §1441
MB FINANCIAL BANK	:	(FEDERAL QUESTION)
	:	
Defendant.	:	
	:	
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PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§1331, 1441, and 1446, Defendant Fifth Third Bank, National Association² (“Fifth Third”) hereby files this Notice of Removal in the United States District Court, Eastern District of New York from the Supreme Court of the State of New York, Kings County. In support thereof, Fifth Third states as follows:

1. Plaintiff Menachem Silber (“Plaintiff”) commenced an action in the Supreme Court of the State of New York, Kings County, entitled *Menachem Silber v. MB Financial Bank* and assigned Index No. 0505705/2020. A copy of the Summons and Complaint is annexed hereto as **Exhibit A**.

2. Plaintiff’s Complaint was filed on March 6, 2020. It did not include a demand for trial by jury.

3. While the service date is unknown, upon information and belief, Fifth Third states service occurred in or about March 2020.

4. Defendant (by its co-counsel) and Plaintiff stipulated to adjourn Defendant’s time to respond to the Complaint to June 5, 2020. A copy of the Stipulation Extending Time to Answer is annexed hereto as **Exhibit B**.

² Fifth Third is the Successor in Interest to MB Financial Bank, N.A.

5. Fifth Third filed a notice of appearance on May 28, 2020 in the civil action pending in state court. A copy of the Notice of Appearance is annexed hereto as **Exhibit C**.

6. Fifth Third answered the Complaint in the state court action on or about June 4, 2020. A copy of Fifth Third's Answer is annexed hereto as **Exhibit D**.

7. Fifth Third is the only defendant named in the Complaint. As a result, all named defendants consent to the removal of this action.

8. Pursuant to the Covid-19 court orders which suspended all state court deadlines, this Notice of Removal is timely filed under 28 U.S.C. §1446(b).

9. This Court has original jurisdiction pursuant to 28 U.S.C. §1331 and is one which may be removed to this Court by Defendants pursuant to the provisions of 28 U.S.C. §1441(a) in that it arises under claims involving federal law. Specifically, Plaintiff's Complaint brings a Fair Credit Reporting Act ("FCRA") claim against Fifth Third pursuant to 15 U.S.C. §1681 *et seq.* for the alleged failure to conduct a reasonable investigation of the reporting of Plaintiff's account and the alleged failure to update Plaintiff's account.

10. Plaintiff seeks relief for all claims asserted by way of an award of actual damages in the amount of \$25,000, statutory and punitive damages, as well as attorneys' fees and court costs.

11. Venue is proper under 28 U.S.C. §1441(a) because the Court is the District Court for the district and division corresponding to the place where the state court action is pending (the Supreme Court of the State of New York, Kings County).

12. Written notice of the filing of this Notice of Removal will be served upon Plaintiff.

13. Pursuant to 28 U.S.C. §1446(D), a true and accurate copy of this Notice of Removal is being filed with the Clerk of Courts for the Supreme Court of the State of New York, Kings County.

For these reasons, Fifth Third respectfully requests this action, initiated in the Supreme Court of the State of New York, Kings County, be removed to the United States District Court, Eastern District of New York.

DATED: New York, New York
June 5, 2020

Respectfully submitted,

REED SMITH LLP

/s/ Kerren B. Zinner
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*Co-Counsel for Defendant Fifth Third
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TO:

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Co-Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §1441

was served by U.S. Mail and ECF on the 5th day of June, 2020 upon the following:

Menachem Silber
1209 E 35th Street
Brooklyn, NY 11210
tz.mike.silber@gmail.com

and via email to:

Alicia Bond-Lewis
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255 E. 5th Street, Ste. 1900
Cincinnati, OH 45202

/s/ Kerren B. Zinner
KERREN B. ZINNER